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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

11 JOHN H. GIORDANO and GEORGANA	) Case No.: CV10-4661-JF (PVT)
12 G. GIORDANO,	)
13 Plaintiffs,	) <b>DECLARATION OF STEPHEN C.</b>
14 vs.	) <b>RUEHMANN RE LATE OPPOSITION TO</b>
15 WACHOVIA MORTGAGE, FSB;	) <b>WACHOVIA'S MOTION TO DISMISS</b>
16 WELLS FARGO, N.A; ETS SERVICES,	) <b>PLAINTIFFS' FIRST AMENDED</b>
17 LLC and DOES 1 to 100, inclusive,	) <b>COMPLAINT</b>
18 Defendants.	) <b>Date: March 25, 2011</b>
	) <b>Time: 9:00 a.m.</b>
	) <b>Crtm: 3</b>
	) <b>Honorable Jeremy Fogel</b>
	)
	)
	)

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22 I, Stephen C. Ruehmann, hereby declare:

23 1. I am counsel of record for Plaintiffs, JOHN H. GIORDANO and GEORGANA G.  
24 GIORDANO, in the above-referenced matter. The following facts are within my personal  
25 knowledge and I could testify competently thereto if called upon to do so.

26 2. As is standard procedure at our firm, I forwarded Defendant's Motion to Dismiss and  
27 supporting paperwork to my legal assistant and calendaring clerk, Felicia Jachim, to be entered  
28 into the firm's electronic calendar.

1       3. Unfortunately, the opposition deadline was inadvertently miscalendared. While we filed  
2 our Opposition papers as soon as the mistake was discovered, they were nonetheless filed well  
3 after the actual opposition due date of March 4, 2011.

4       4. In an effort to afford the parties a chance to fully brief the matter before the Court rules  
5 upon the Motion, we also contacted counsel for the moving party, Gene Wu, to request that they  
6 stipulate to moving the hearing date back sufficiently far that movant could file a Reply and the  
7 Court have ample time to consider the matter on the merits. Opposing counsel declined to so  
8 stipulate.

9       5. It would be unjust for my clients to suffer prejudice as a result of the inadvertent  
10 calendaring error by my office. Accordingly, I respectfully request that the Court accept and  
11 consider the belated Opposition and reschedule the hearing on the Motion at issue to allow the  
12 moving party the opportunity to file a Reply.

13       I declare under the penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct.

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16 Dated: March 15, 2011

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18                   /s/ Stephen C. Ruehmann, Esq.  
19                   Stephen C. Ruehmann  
20                   Attorney for Plaintiffs  
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